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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/673,121	11/27/2000	Arild Follestad	FRD-043	9468

7590 03/12/2003

Patent Administrator
Testa Hurwitz & Thibeault
125 High Street
High Street Tower
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EXAMINER

BROWN, JENNINE M

ART UNIT	PAPER NUMBER
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1755

DATE MAILED: 03/12/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/673,121

Applicant(s)

FOLLESTAD ET AL.

Examiner

Jennine M. Brown

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-9 and 12 is/are rejected.
- 7) ☒ Claim(s) 10 and 11 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 6.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 1-9 and 12 are rejected under 35 U.S.C. 102(e) as being anticipated by Sartain, et al. (US 6395669).

Sartain, et al. teach a catalyst system for the polymerization of ethylene comprising a chromium oxide complex (Ziegler-Natta type) and a zirconocene each supported on an inorganic support (e.g. calcined silica) (col. 3, l. 29-39). The cyclopentadienyl compound is substituted with linear, branched, cyclic or partially cyclic alkyl radicals and annelated cyclic radicals, containing 1-20 carbon atoms; unsubstituted and substituted monocyclic or polycyclic aryl radicals which optionally also may contain heteroatoms; and aralkyl radicals wherein the substituents on the cyclopentadienyl ring

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may also form annelated structures comprising one or more fused benzene, naphthalene or cyclohexene rings which optionally may contain heteroatoms, and the two cyclopentadienyl rings may also be connected through a bridge (col. 4, l. 39 – col. 5, l. 27). The zirconocene complex is taught with ligands having chloride, methyl, benzyl or phenoxymethyl and combinations thereof (col. 8, l. 6-34; col. 4, l. 39 – col. 5, l. 27). The chromium complex is also taught (col. 8, l. 42-47). Silica particle size is taught to be in the range of 20 μm to 150 μm and a surface area from 200 m^2/g to 600 m^2/g (col. 4, l. 9-14; col. 15, l. 65 – col. 16, l. 35). Chromium is present in an amount from 0.1% to 10% weight calculated as chromium to silica catalyst, more preferably from 0.5 to 2.0% (col. 6, l. 66 – col. 7, l. 4; col. 8, l. 60-67).

Allowable Subject Matter

Claims 10 and 11 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Prior art of record does not fairly teach or suggest specific molar ratios between the Ziegler Natta catalyst metal and the metallocene metal.

Relevant Prior Art

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.


WO 97/27225 teaches an ethylene polymerization catalyst and process using a two catalyst system (A, B) comprising chromium oxide supported catalyst (A) and a bis-cyclopentadienyl chromium supported catalyst (B).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jennine M. Brown whose telephone number is (703) 305-0435. The examiner can normally be reached on M-F 8:00 AM - 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mark Bell can be reached on (703) 308-3823. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 879-9310 for regular communications and (703) 872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

jmb
March 10, 2003


Mark L. Bell
Supervisory Patent Examiner
Technology Center 1700